HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE G. CHANDRAIAH

Writ Appeal Nos.317, 320, 321, 322, 323 and 325 of 2003

Writ Appeal No.317 of 2003

Between:

G. Chenchaiah

... Appellant

And

The District Collector, Chittoor and others

... Respondents

::JUDGMENT::

Counsel for the appellants: Shri E. Manohar, Senior Advocate, assisted by Shri M.P. Chandramouli, Advocate

Counsel for the respondent Nos.1 and 2: Shri C.V. Mohan Reddy, Senior Advocate assisted by Shri T. Ganga Rami Reddy, Advocate for Tirupathi Urban Development Authority

December 22, 2006

Per G.S. Singhvi, CJ

Whether Award No.1 of 1998 dated 12-3-1998 passed by Special Tahsildar and Land Acquisition Officer, Tirupathi Urban Development Authority (respondent No.2) in respect of Ac.11-96 cts. of land comprised in Survey Nos.203/3N to 3R, 196/2A to 2E, 202/1A and 3C and 204/6, 7, 9 and 10 situated in Vedantapuram Village, Tirupathi Rural Mandal, Chittoor District was beyond the period specified in Section 11A of the Land Acquisition Act,

1894 (for short, the Act') and, on that account, the acquisition proceedings initiated vide notification dated
9-11-1992 issued by District Collector, Chittoor (respondent No.1) are liable to be quashed, is the question which arises for determination in these appeals filed against order dated
21-1-2003 passed by the learned Single Judge whereby he dismissed Writ Petition Nos.17076, 17077, 17078, 17108, 17109 and 17110 of 2000 filed by the appellants.

The facts necessary for deciding the above noted question are detailed below:

1) On receipt of the request made by the Tirupathi Urban Development Authority (hereinafter described as 'the Development Authority') for acquisition of land for sites and services programme, respondent No.1 issued notification dated 9-11-1992 under Section 4 (1) of the Act for acquisition of Ac.25.22 cts. of land comprised in Survey Nos.196, 202, 203 and 204 of Vedantapuram Village. The same was published in Andhra Pradesh Gazette dated
10-11-1992 and two Telugu Newspapers i.e. Eenadu and Andhra Jyothi dated 18-11-1992. The gist of the notification was also published in the locality on
14-12-1992. Thereafter, an enquiry was held under Section 5-A of the Act by giving notice to the interested persons. This was followed by draft declaration issued under Section 6 of the Act, which was published in Andhra Pradesh Gazette No.270 dated 20-4-1993 and newspapers Praja Sakti dated 26-4-1993 and Udayam dated
22-4-1993. The gist of the draft declaration was also published in the locality on 22-4-1993.

2) The appellants, who had land in Survey Nos.203/3N to 3R, 196/2A to 2E, 202/1A and 3C and 204/6, 7, 9 and 10 filed Writ Petition Nos.5282, 5327, 5539, 5540, 5569 and 6653 of 1993 to challenge the acquisition proceedings. They also filed WPMP Nos.6738, 6790, 7092, 7093, 7134 and 8430 of 1993 for stay of all further proceedings in respect of the land owned by them. By an order dated

23-4-1993 passed in WPMP No.6738 of 1993 in Writ Petition No.5282 of 1993, the learned Single Judge ordered status quo. Similar orders of status quo were passed on 26-4-1993, 28-4-1993, 28-4-1993 and 28-4-1993 respectively in WPMP Nos.6790 of 1993 in Writ Petition No.5327 of 1993, WPMP No.7092 of 1993 in Writ Petition No.5540 of 1993, WPMP No.7093 of 1993 in Writ Petition No.5540 of 1993, WPMP No.7134 of 1993 in Writ Petition No.5569 of 1993 respectively and 19-5-1993 in WPMP No.8430 of 1993 in Writ Petition No.6653 of 1993.

3) During the pendency of the writ petitions filed by the appellants, respondent No.2 passed Award No.1 of 1993 dated 16-6-1993 in respect of Ac.13-26 cts. of land, which was not subject matter of any of the writ petitions.

4) All the writ petitions, except Writ Petition No.6653 of 1993, were dismissed by the learned Single Judge by a common order dated 3-6-1994. The appellants challenged that order by filing appeals under Clause 15 of the Letters Patent. They also filed miscellaneous petitions for stay of the further proceedings. By similar orders passed on

20-9-1994, the Division Bench stayed further proceedings. The writ appeals were finally dismissed on 29-2-1996.

5) Writ Petition No.6653 of 1993 jointly filed by E. Pulla Reddy and C. Sankar Reddy was dismissed by the Division Bench on 25-3-1996 along with Writ Appeal No.1071 of 1994 and Writ Petition Nos.7375 and 9254 of 1993.

6) Thereafter, respondent No.2 issued notices to the parties and passed Award No.1 of 1998 dated 12-3-1998.

The appellants challenged the award in Writ Petition Nos. 17076, 17077, 17078, 17108, 17109 and 17110 of 2000 by contending that the same is violative of Section 11A of the Act. They pleaded that in terms of Section 11A of the Act, the award can be passed within two years from the date of publication of declaration and, as the impugned award had been made after

expiry of that period, the same is liable to be declared as illegal and quashed.

In the counter-affidavits filed on behalf of the Development Authority, it was pleaded that while computing the period of two years specified in Section 11A of the Act, the period during which the proceedings remain stayed is liable to be excluded and if that is done, then the award will be deemed to have been made within two years.

The learned Single Judge rejected the contention of the respondents that the time consumed between the decision of the writ petition and passing of stay order by the Division Bench as also the time taken in supply of copy of the order of the Division Bench to the Land Acquisition Officer is liable to be excluded. He relied on the judgment of the Constitution Bench of the Supreme Court in **Padmasundara Rao v. State of T.N.**[1] and held that in computing the period specified in Section 11A, only the time during which the proceedings under Section 4 (1) remain stayed by the order of the Court is liable to be excluded and not the time taken in the service of the Court's order on the Land Acquisition Collector. The learned Single Judge further held that the time spent by the land owners in filing writ appeals against order dated 3-6-1994 passed in the writ petitions cannot be excluded from the period specified in Section 11A. He then took note of the fact that in respect of Ac.13-26 cts. of land, award was passed as early as on 16-6-1993 and that interim order passed in Writ Petition No.6653 of 1993 remained operative till 25-3-1996 and held that the award dated 12-3-1998 cannot be declared illegal on the ground that the same was made beyond the period specified in Section 11A. This is evinced from the last two paragraphs of the order of the learned Single Judge, which are reproduced below:

> "It is no doubt true that the lands belonging to all the petitioners herein were proposed for acquisition under the same notification and the same declaration was given. The petitioners individually challenged the proceedings in various writ petitions as noticed hereinabove. E. Pulla Reddy and others, the petitioners in W.P.No.17110 of 2000 filed W.P.No.6653 of 1993 and obtained interim order on 19-5-1993. The interim order was in force till 26-3-1996 and, therefore, no award should have been passed in respect of the lands of those persons. Similar is the case in respect of other writ petitioners. The award passed on

12-3-1998 insofar as the same extent is concerned, cannot be said to be beyond two years. Further, as rightly contended, in relation to Acs.13.26 cts, an award being Award No.1 of 1993 was already passed on 16-6-1993 and the same, in my considered opinion, does not render the award dated 12-3-1998 passed in relation to other lands illegal. A reference may be made to **State of Tamil Nadu v. Mahalakshmi Ammal {AIR 1996 SC 866}**, wherein it was held:

> "It is well settled law that publication of the declaration under Section 6 gives conclusiveness to public purpose. Award was made on September 26,1986 and for survey No. 2/11 award was made on August 31, 1990 . Possession having already been undertaken on November 24, 1986, it stands vested in the State under Section 16 of the Act free from all encumbrances and thereby the Government acquired absolute title to the land. **The initial award having been made within two years under Section 11 of the Act. the fact that subsequent award was made on 31st August, 1990 does not render the initial award invalid**. It is also to be seen that there is stay of dispossession. Once there is stay of dispossession, all further proceedings necessarily could not be proceeded with as laid down by this Court. Therefore, the limitation also does not stand as an impediment as provided in the proviso to Section 11A of the Act. Equally, even if there is an irregularity in service of notice under Sections 9 and 10, it would be a curable irregularity and on account thereof, award made under Section 11 does not become invalid. ……
>
> (emphasis mine)"

When the Government proposes to acquire the land and initiates proceedings therefor, it is possible that some persons challenge the acquisition by way of a writ petition. If an award is passed in relation to the land in respect of which no litigation is pending before the High Court and where there is no challenge in respect of those lands, even if the award is passed in respect of the lands subsequently, the same does not render the award invalid in terms of Section 11A of the Act. That is the ratio of the decision in **State of Tamil Nadu v. Mahalakshmi Ammal** (supra). In my opinion, the said ratio squarely applies to the facts of the case. The writ petitions, therefore, fail and are accordingly dismissed. There shall be no order as to costs."

Shri E. Manohar, Senior Advocate appearing for the appellants argued that the view expressed by the learned Single Judge on the interpretation of Section 11A of the Act is not only contrary to the plain language of the section, but is also against the law laid down by the Supreme Court. He submitted that

Award No.1 of 1993 dated 16-6-1993 passed by respondent No.2 in respect of Ac.13-26 cts. of land does not have any nexus with the land belonging to the appellants and, therefore, the same could not be relied by the learned Single Judge for holding that Award No.1 of 1998 dated 12-3-1998 was not beyond two years. Learned Senior Counsel further argued that the date of dismissal of Writ Petition No.6653 of 1993 i.e. 25-3-1996 cannot be taken into consideration for computation of two years period specified in Section 11A because that petition was filed after one month of the publication of declaration under Section 6 of the Act. He submitted that even if the total period during which the proceedings in relation to the land measuring Ac.2-78 cts. covered by Survey No.203/3N to 203/3R remained stayed in WPMP No.8430 of 1993 in Writ Petition No.6653 of 1993 is excluded, the award would be deemed to have been made after 10 days of the expiry of two years period. In support of this submission, Shri E. Manohar invited our attention to the statements filed by his assistant counsel Shri M.P. Chandramouli today in the Court. Learned counsel then argued that the judgment of the Supreme Court in **State of Tamil Nadu v. Mahalakshmi Ammal**[2] is distinguishable because in that case, the land, which was subject matter of acquisition, was indivisible whereas in the present cases different parcels of land belonging to different persons had been acquired.

Shri C.V. Mohan Reddy, learned Senior Counsel appearing for the Development Authority argued that the total period during which the proceedings initiated vide notification dated 9-11-1992 remained stayed is liable to be excluded in terms of explanation appearing below Section 11A and if that is done, Award No.1 of 1998 dated 12-3-1998 cannot be said to have been passed beyond the period specified in that section. He pointed out that the acquisition of the entire land was for urban development of the area and in view of the first order of status quo passed on
23-4-1993, which was followed by similar orders dated
26-4-1993, 28-4-1993 and 19-5-1993, respondent No.2 was disabled from passing award in respect of land measuring
Ac.11-96 cts. and as Writ Petition No.6653 of 1993 was dismissed only on 25-

3-1996, the award passed on 12-3-1998 cannot be declared violative of Section 11A of the Act. In support of this argument, Shri C.V.Mohan Reddy relied on the judgments of the Supreme Court in **L.N. Venkatesan v. State of T.N.**[3] and **Abhey Ram v. Union of India**[4]. He also drew support from the ratio of the judgment of the Supreme Court in **Mahalakshmi Ammal**'s case (supra) and argued that in view of Award No.1 of 1993 dated 16-6-1993 passed in respect of Ac.13-26 cts. of land, and the fact that a common declaration was made under Section 6 in respect of the entire extent of land, the subsequent award passed in respect of the remaining land i.e. Ac.11-96 cts. cannot be nullified on the ground that the same was passed beyond the period of two years specified in Section 11A of the Act.

We have thoughtfully considered the entire matter. Section 11A of the Act reads as under:

> **11A. Period within which an award shall be made:**
>
> The Collector shall make an award under Section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:
>
> PROVIDED that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.
>
> **Explanation:** In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a court shall be excluded.

Though it may appear repetitive, we deem it necessary to briefly recapitulate the relevant facts. The total extent of land measuring Ac.25-22 cts. comprised in Survey Nos.196, 202, 203 and 204 of Vedantapuram Village, including Ac.11-96 cts. belonging to the appellants was acquired vide notification dated 9-11-1992 issued under Section 4 (1) of the Act. The acquisition was for sites and services programme undertaken by the Development Authority. At the conclusion of enquiry held under Section 5A of the Act, the competent authority issued declaration under Section 6 in respect of the entire land. The same was published in the Andhra Pradesh Gazette

dated

20-4-1993. The gist of the declaration was published in the locality on 22-4-1993 and also in two newspapers i.e. Praja Sakti dated 26-4-1993 and Udayam dated 22-4-1993. Out of the total extent of land acquired vide notification dated 9-11-1992, Award No.1 of 1993 dated 16-6-1993 was passed in respect of Ac.13-26 cts. However, on account of the order of status quo dated

23-4-1993 passed in WPMP No.6738 of 1993 in Writ Petition No.5282 of 1993 and similar orders passed in other petitions on 26-4-1993, 28-4-1993 and 19-5-1993, further proceedings including the making of award could not be held in respect of Ac.11-96 cts. of land. All the writ petitions, except Writ Petition No.6653 of 1993 were dismissed on 3-6-1994 and writ appeals preferred by the petitioners of those cases were also dismissed on 29-2-1996. Writ Petition No.6653 of 1993 was dismissed on

25-3-1996. Thereafter, Award No.1 of 1998 was passed on

12-3-1998 in respect of Ac.11-96 cts. of land.

For better appreciation of the rival contentions, the dates on which interim and final orders were passed in the writ petitions and writ appeals instituted in the earlier round of litigation are given below:

S.No.	W.P.No.	Corresponding W.P. No. in earlier litigation	Date of order in WPMP ordering status quo	Date of order in WP	Date of interim order in WAMP in Writ Appeal	Date of dismissal of W.A.
1)	17076/2000	5282 of 1993	23-4-93	3-6-94	20-9-94	29-2-96
2)	17077/2000	5539 of 1993	28-4-93	-do-	-do-	-do-
3)	17078/2000	5327 of 1993	26-4-93	-do-	-do-	-do-
4)	17108/2000	5569 of 1993	28-4-93	-do-	-do-	-do-
5)	17109/2000	5540 of 1993	28-4-93	-do-	-do-	-do-
6)	17110/2000	6653 of 1993	19-5-93	25-3-96	No writ appeal	---

The above recapitulation of facts and tabular statement of the orders

passed in different cases makes it clear that on account of the interim orders of status quo passed by this Court in the writ petitions filed by the appellants, respondent No.2 could not undertake the exercise for passing award in respect of Ac.11-96 cts. of land was passed on 16-6-1993. The last order of status quo was passed on 19-5-1993 in WPMP No.8430 of 1993 in Writ Petition No.6653 of 1993. That petition was finally dismissed on 25-3-1996 and the award was passed on
12-3-1998. Therefore, by virtue of the explanation appearing below Section 11A, the period during which the proceedings in furtherance of declaration made under Section 6 remained stayed is liable to be excluded in computing the period of two years specified in Section 11A.

In **Abhey Ram**'s case (supra), a three Judges Bench of the Supreme Court considered the question somewhat similar to the one raised in these appeals. The factual matrix of that case shows that notification under Section 4 (1) of the Act was published on 5-11-1980 for acquiring large extent of land in several villages including Khirkee Village. The appellant was in possession of 25 bighas of land in Khirkee Village. Declaration under Section 6 was published on 7-6-1985. The same was challenged in the writ petitions filed before the Delhi High Court. A Full Bench of that Court upheld the validity of notification issued under Section 4 (1) and declaration issued under Section 6 of the Act on the ground that some of the land owners whose land was covered under the common notification had already approached the High Court and obtained stay of further proceedings including the publication of declaration under Section 6 and, as a consequence, the period of stay stood excluded by operation of explanation 2 appearing below Section 6 (1) of the Act. The Supreme Court considered the question whether the stay obtained by some of the persons which resulted in prohibiting the respondents from publishing declaration under Section 6 would equally be extendable to the cases of the appellants. After taking cognizance of various stay orders passed by the High Court, the Supreme Court observed:

> "We proceed on the premise that the appellants had not obtained any stay of the publication of the declaration but since the High Court in some of the cases has, in fact, prohibited them as extracted

hereinbefore, from publication of the declaration, necessarily, when the Court has not restricted the declaration in the impugned orders in support of the petitioners therein, the officers had to hold back their hands till the matters were disposed of. In fact, this Court has given extended meaning to the orders of stay or proceeding in various cases, namely, Yusufbhai Noormohmed Nendoliya v. State of Gujarat {(1991) 4 SCC 531}, Hansraj H. Jain v. State of Maharashtra {(1993) 3 SCC 634}, Sangappa Gurulingappa Sajjan v. State of Karnataka {(1994) 4 SCC 145}, Gandhi Grah Nirman Sahkari Samiti Ltd. v. State of Rajasthan {(1993) 2 SCC 662}, G. Narayanaswamy Reddy v. Govt. of Karnataka {(1991) 3 SCC 261} and Roshnara Begum v. Union of India {(1986) 1 Apex Dec 6}. The words stay of the action or proceeding have been widely interpreted by this Court and mean that any type of the orders passed by this Court would be an inhibitive action on the part of the authorities to proceed further. When the action of conducting an enquiry under Section 5-A was put in issue and the declaration under Section 6 was questioned, necessarily unless the Court holds that enquiry under Section 5-A was properly conducted and the declaration published under Section 6 was valid, it would not be open to the officers to proceed further into the matter. As a consequence, the stay granted in respect of some would be applicable to others also who had not obtained stay in that behalf."

(underlining is ours)

In **L.N. Venkatesan v. State of T.N.** (supra), the Supreme Court considered the effect of stay order passed in respect of a portion of the land, which was subject matter of acquisition, referred to the earlier judgment in **Yusufbhai Noormohmed Nendoliya v. State of Gujarat**[5] and held that a person who is interested in the land and wants to take advantage of Section 11A, is entitled to the benefit of the period of two years specified in Section 11A, only if he has not obtained interim order against the land acquisition proceedings of any nature whatsoever.

The aforementioned two judgments substantially support the view we have taken that the orders of status quo passed in different writ petitions and writ appeals filed by the appellants, which remained effective till 25-3-1996 i.e. the date on which Writ Petition No.6653 of 1993 was dismissed, effectively prevented respondent No.2 from passing award in respect of land measuring Ac.11-96 cts. and, therefore, the award passed on 12-3-1998 was within the

period of two years specified in Section 11A.

We also agree with the learned Single Judge that the ratio of the judgment of the Supreme Court in **Mahalakshmi Ammal**'s case (supra) has bearing on the issue raised by the writ petitioners (appellants herein). Though the factual matrix of that case is slightly different, the ratio of the judgment, which has been extracted in the order of the learned Single Judge, is clearly applicable to these cases because award in respect of a part of the acquired land measuring Ac.13-26 cts. was passed on
16-6-1993 i.e. in less than two months from the date of publication of declaration under Section 6 of the Act and, therefore, the second award passed on 12-3-1998 cannot be nullified on the ground of violation of Section 11A of the Act.

No other point has been argued.

In the result, the appeals are dismissed. However, the parties are left to bear their own costs.

As a sequel to dismissal of the appeals, all the interim orders shall stand vacated and WAMP Nos.555, 560, 561, 562, 564 and 574 of 2003 filed by the appellants shall stand dismissed.

G.S. SINGHVI, CJ

G. CHANDRAIAH, J

December 22, 2006

svs

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[1] AIR 2002 SC 1334

[2] AIR 1996 SC 866

[3] (1997) 5 SCC 309

[4] (1997) 5 SCC 421

[5] (1991) 4 SCC 531